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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,215	09/08/2003	Chikara Yamashita	03-013	7492
7590	06/06/2005		EXAMINER	
<b>Randy Shay</b> PO Box 2607 Fairfax, VA 22031				LUGO, CARLOS
		ART UNIT	PAPER NUMBER	3676

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/656,215	YAMASHITA, CHIKARA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 January 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) 7-9 and 13-18 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 is/are rejected.  
 7) Claim(s) 6,10-12 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 08 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

1. This Office Action is in response to applicant's election filed on January 31, 2005.

### *Election/Restrictions*

2. Applicant's election with traverse of Species #3, drawn to claims 1-6,10-13,15-16 and 18, in the reply filed on January 31, 2005 is acknowledged. The traversal is on the ground(s) that the species presented in Figure 11 is not a separate species because it depicts an additional feature that is optional to any of the other three species. Therefore, the applicant believes that claims 15,16 and 18 should also be included with whatever species has been elected.

This is not found persuasive. The fact that a yoke includes a tongue is considered as a separate claimed species because it presents a totally different embodiment. The fact that applicant deems this additional feature to be "optional" is of little consequence when it is otherwise patentably distinct from embodiments not having this feature. Is it applicant's position that the provision of the tongue 54 is an obvious feature not patentably distinct from the other embodiments? If so, the applicant should clearly admit this on the record. Note the first paragraph of page 3 of the election requirement mailed on September 30, 2004.

Therefore, in order to continue with the examination, claims 1-6 and 10-13 will be considered as the claims for the elected species. Claims 7-9 and 13-18 are withdrawn from further consideration. The requirement is still deemed proper and is therefore made FINAL.

***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases, which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," "improved", etc.

4. The abstract of the disclosure is objected to because of the use of phrases like "is disclosed" and "the present invention". Correction is required. See MPEP § 608.01(b).
  5. The specification is objected to because of the following informalities:
    - The current specification fails to provide a brief description of Figures 10 and 11 in the "Brief Description of the Drawings" section.
- Appropriate correction is required.

***Claim Objections***

6. **Claim 1 is objected** to because of the following informalities:

- Claim 1 Line 18, change “within said first engaging means and said second engaging means” to -within said first constraining means and said second constraining means-.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1-3 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 773,579 to De Mayo.

Regarding claim 1, De Mayo discloses a door security latch comprising a jamb element. The jamb element comprises a jamb base plate (f); a first constraining means (c3) for limiting the distance to which a door may be opened to a first opening distance; and a second constraining means (c2 with the lugs c5) for limiting the distance to which a door may be opened to a second distance. The second opening distance is smaller than the first opening distance.

The door security latch further comprises a door element. The door element comprises a door element base plate (a); engaging means (b) for engaging either the first or the second constraining means of the jamb element; and retaining means (b1-

b3) for maintaining the engaging means within the first or second constraining means.

As to claim 2, De Mayo discloses that the engaging means comprises a projecting arm (where b is pointing in Figure 3).

As to claim 3, De Mayo discloses that the retaining means comprises a substantially spherical member (b3).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 4 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 773,579 to De Mayo as applied to claims 1-3 above, and further in view of US Pat No 4,900,075 to Smith.

Regarding claim 4, De Mayo discloses that the first constraining means is a first yoke (c2). However, De Mayo fails to disclose that the yoke is pivotally attached to lugs on the front face of the jamb base plate. De Mayo discloses that the first yoke (c2) is pivotally mounted to the jamb base plate.

Smith teaches that it is well known in the art to have a yoke member (16) that is pivotally attached to lugs on the front face of the jamb base plate (Figure 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the yoke member pivotally connected to lugs at the base

plate, as taught by Smith, into a device as described by De Mayo, because the fact that how is pivotally connected the yoke with respect to the base plate is considered as a design consideration that will not affect the mechanism of the latch.

**11. Claim 5 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 773,579 to De Mayo in view of US Pat No 4,900,075 to Smith as applied to claim 4 above, and further in view of US Pat No 1,154,862 to Hoagland.

De Mayo, as modified by Smith, fails to disclose that the arm is pivotally attached to the door base plate.

Hoagland teaches that it is well known in the art to have an arm (A) that is pivotally attached (9) to a door base plate (3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the arm pivotally attached to the door base plate, as taught by Hoagland, into a device as described by De Mayo, as modified by Smith, in order to give the arm the flexibility to engage the yoke member.

#### ***Allowable Subject Matter***

**12.** Claims 6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 11 and 12 would also be allowed because the claims depend from claim 10.

#### **Reasons For Allowable Subject Matter**

**13.** The following is an examiner's statement of reasons for allowable subject matter:

Claims 6 and 10 present allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the second constraining means is a yoke that constrains the spherical member by means of side rails joined to one another at distal ends and being pivotally attached to the jamb base plate (claim 6) and that the spherical member has a notch formed in a front portion (claim 10).

Regarding claim 6, De Mayo (US 773,579) fails to disclose that the second constraining means is a yoke that constrains the spherical member by means of side rails joined to one another at distal ends and being pivotally attached to the jamb base plate. De Mayo discloses that the second constraining means is a hook-like member (c3) that is attached to the first constraining means.

Gorowitz (US 1,497,500) teaches a second constraining means (21), however, this means will constrain the first constraining means (12), not the spherical member (19).

As to claim 10, the prior art fails to disclose a spherical member having a notch formed in a front portion.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L

Carlos Lugo  
AU 3676

May 31, 2005



DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
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